

Application No. 10/624,681

REMARKS

Claims 1-15 are pending in this application. By this Amendment, the specification is amended to add the subject matter of original claim 14 and 15 to the detailed description. Support for the amendment can be found in original claims 14-15, which form part of the original disclosure, and page 21, lines 5-14 of the specification. No new matter is added.

The courtesies extended to Applicants' representative by Examiner Fields at the telephone interview held December 17, 2007, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

During the interview, Examiner Fields questioned whether claims 14-15 meet 35 U.S.C. §101 and inquired where there is support for the corresponding structure of the claimed computer readable storage medium. In particular, it was asked whether this claim could be implemented in "software" alone.

As discussed during the interview, while a computer "program" claim itself may not be statutory, a claimed "computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory." See *In re Lowry*, 32 F.2d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) and Annex IV of the Patent Office's Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility published November 22, 2005. Thus, only when the program claim as a whole is merely a set of instructions or a listing is the subject matter non-statutory functional descriptive material.

Applicants' claims 14-15 are directed to a "computer readable storage medium storing a program for causing a computer to execute..." As discussed, this cannot be interpreted as embodying software alone (i.e., just a program) as the claims specifically recite a computer

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readable storage medium storing a program. Thus, claims 14-15 fall squarely within the Patent Office guidelines for statutory subject matter.

However, at the request of Examiner Fields, Applicants amend the detailed description of the specification to conform to claims 14-15 to convey that the software (i.e., program) may be stored. This is supported by the claims as originally filed and page 21, lines 5-14.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claim 1-15 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Stephen P. Catlin
Registration No. 36,101

JAO:SPC/ccs

Date: December 19, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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